

**American National General Insurance Company  
1949 East Sunshine Street  
Springfield, MO 65899**

**NAIC COMPANY 39942**

**MARKET CONDUCT EXAMINATION REPORT**

**as of  
December 31, 2003**

**PREPARED BY INDEPENDENT CONTRACTORS FOR  
COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**American National General Insurance Company  
1949 East Sunshine St., Springfield, MO 65899**

**MARKET CONDUCT  
EXAMINATION REPORT  
as of  
December 31, 2003**

**Prepared by**

**Gary L. Domer, CIE**

**James H. Daughan, CPCU, CIE, AIM**

**Independent Contract Examiners**

March 17, 2004

The Honorable Doug Dean  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Dean:

In accordance with Sections 10-1-203, C.R.S. and 10-3-1106, C.R.S., an examination of selected underwriting and claims practices of the American National General Insurance Company's private passenger automobile business has been conducted. The Company's records were examined at the Home Office located at 1949 East Sunshine Street, Springfield, MO 65899. The examination covered a twelve-month period from January 1, 2003, to December 31, 2003.

A report of the examination of the American National General Insurance Company is, herewith, respectfully submitted.

Gary L. Domer, CIE  
James H. Daughan, CPCU, CIE, AIM

Independent Market Conduct Examiners

**MARKET CONDUCT  
EXAMINATION REPORT  
OF  
American National General Insurance Company**

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**COMPANY PROFILE**

The American National General Insurance Company was incorporated on December 30, 1980, under the laws of Missouri and began business on April 1, 1981. The Company is a stock company and all of the outstanding capital stock is owned by the sponsor, American National Property and Casualty Company, Springfield, MO. Complete ownership of the latter resides with American National Insurance Company, Galveston, TX.

The Company was licensed in Colorado on August 30, 1989. The lines of business written include private passenger auto and motorcycles.

The Company markets its products through 97 licensed agents in Colorado.

In 2003, the Company had 2,723 private passenger automobile policies in force in Colorado.\* The Company reported \$4,538,000 in private passenger automobile written premium in Colorado during 2003, representing a .16% market share of all private passenger automobile insurance written in Colorado during 2003.\*\*

\*Data as reported by the Company

\*\*Data as reported in the Colorado Insurance Industry Statistical report

## **PURPOSE AND SCOPE OF EXAMINATION**

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law, Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance laws and with generally accepted operating principles related to automobile insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report

The examination was governed by, and was performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered twelve (12) months of the Company's operations, from January 1, 2003, to December 31, 2003.

File sampling was based on a review of underwriting and claim files systematically selected from file runs provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any findings were noted on a comment form and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond and was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of the examination the Company was provided a summary of the findings.

The examination report is a report by exception; therefore, much of the material reviewed is not addressed in the written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines. When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following five (5) areas of Company operations:

1. Company Operations and Management
2. Complaint Handling
3. Agents
4. Underwriting and Rating
5. Claims

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

**EXAMINERS' METHODOLOGY**

The examiners reviewed the Company's Private Passenger Automobile underwriting and claims practices to determine compliance with the Colorado insurance law.

**Exhibit 1**

<b>Law</b>	<b>Subject</b>
Section 10-1-205	Financial Examination Reports
Section 10-1-203	
Section 10-4-401	Purpose-applicability
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-706.	Required coverages - complying policies - PIP examination program.
Section 10-4-618	Unfair or discriminatory trade practices-legislative declaration
Section 10-4-619	Coverage compulsory
Section 10-4-620	Required Coverage
Section 10-4-621	Required Coverages are minimum
Section 10-4-622	Required provision for intrastate and interstate operation
Section 10-4-623	Conditions and exclusions
Section 10-4-624	Self-insurers
Section 10-4-625	Quarterly premium payments
Section 10-4-626	Prohibited reasons for non-renewal or refusal to write a policy
Section 10-4-627	Discriminatory standards-premiums-surcharges-proof of financial resp.
Section 10-4-628	Refusal to write-changes in-cancellation-non-renewal of policies
Section 10-4-629	Cancellation-renewal-reclassification
Section 10-4-630	Exclusion of named driver
Section 10-4-631	Insurers to file rate schedule
Section 10-4-632	Reduction in rates for drivers 55 years or older/drivers ed course
Section 10-4-633	Certification of policy and notice forms
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Intercompany arbitration.



Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.
Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course - legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Section 10-3-1106	
Section 10-3-1107	Hearings
Section 10-3-1108	Orders
Section 10-3-1109	Penalty for violation of cease and desist orders
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8	Penalties And Timelines Concerning Division Inquiries And Document Requests
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Ins. Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.

### **Company Operations and Management**

The examiners reviewed Company management, implementation, and quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

### **Complaints**

The examiners reviewed and compared the complaint log maintained by the Division of Insurance against the Company's complaint log to verify the accuracy of the Company's tracking system. The examiners also evaluated the Company's complaint handling methodology and reviewed the reason for and disposition of complaints.

**Producers**

The examiners reviewed new business applications written in the State of Colorado for the period under examination and compared those documents against the list of producers provided by the Company.

**Contract Forms and Endorsements**

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance.

Title	Form	Edition
Colorado Auto Policy-	SA-405 CO	5-03
Work Loss coverage Endorsement	SA-516	1-85
CO Summary Disclosure Form-ANG	IA-471	5-03
CO Auto/Motorcycle Application	SA-937 CO	5-03
CO Auto Motorcycle Electronic Application and Binder	SA-1198	5-03
CO Premium Increase/Reduction In Coverage Notice	UW-68-ANG	5-03
Cancellation/Non-Renewal Notice	SA-368	7-01
Voicing Auto Ins. While a Certain Person in Operating Car	SA-18	1-83
Colorado Cancellation /Non-Renewal Notice	SA-368	7-01
Colorado Policyholder Disclosure Notice	IA-471	5-03
Reimbursement of Car Rental Expense	SA-1008	1-97
GAP Coverage-Automobiles	SA-1222	8-95
Gap Coverage Motorcycles	SA-1226	5-96
Stated Value Endorsement	SA-1228	8-95
Gap Coverage for new Cars	SA-1299	5-97
Original Parts Endorsement	SA-1391	2-99
Motorcycle Under Construction	SA-1393	3-99
Stated Value Endorsement-Vintage Motorcycles	SA-1394	2-99
Coverage I-Towing and Labor	SA-1395	2-99
Reimbursement of Motorcycle Rental Expense	SA-1396	2-99
Increased Limits for Motorcycle Accessories-\$4000	SA-1397	2-99
Increased Limits for Motorcycle Accessories-\$5000	SA-1398	2-99
Increased Limits for Motorcycle Accessories-\$7000	SA-1399	2-99
Increased Limits for Motorcycle Accessories-\$9000	SA-1400	2-99
Increased Limits for Motorcycle Accessories-\$12,000	SA-1401	2-99

Increased Limits for Motorcycle Accessories-\$15,000	SA-1402	2-99
Increased Limits for Motorcycle Accessories-\$20,000	SA-1403	2-99
Car Under Construction	SA-1406	3-99
Added Coverage Endorsement	SA-1475	9-00
Insurance for Sound Receiving or Transmitting Equipment	SA-233	11-95
Car Damage Coverage Limitation-Van	SA-234	7-79
Limit of Liability Endorsement	SA-236	1-84
Mexico Coverage Endorsement-Limited	SA-241	2-02
Wholesale and Retail Delivery Exclusion	SA-296	10-83
Additional Interest Endorsement Owned Vehicle	SA-321	8-88
Rented Motor Homes or Trailers	SA-370	8-88
Colorado Family Auto Policy	SA-405CO	5-03
Automobile Accidental Death Indemnity, Dismemberment and Loss of Sight Endorsement	SA-440	1-85
Work Loss Coverage Endorsement	SA-516	1-85
Selection of Uninsured/Underinsured Motorist Coverages	SA-525	8-99
Reimbursement of Auto Rental Expense	SA-595	1-97
Additional Insured Endorsement Non-Owned Car	SA-738	8-88
Colorado Motorcycle Policy	SA-813CO	10-00
Colorado Auto Insurance Application	SA-937CO	5-03
Driver Exclusion Endorsement	SA-941	2-92
Declaration	SA-484	12-92
Nonpayment Notice	SA-709	12-94

### **Underwriting**

The examiners reviewed Company procedures and practices for converting policies from PIP to tort liability to verify compliance with Colorado Division of Insurance policies and procedures and Colorado Insurance regulations. The review included specific samples of converted private passenger automobile and motorcycle policies.

**New Business /Cancellations/Nonrenewals/Surcharges/Rejections/Renewals**

For the period under examination the examiners systematically selected the following underwriting samples to determine compliance with underwriting practices:

Review Lists	Population	Sample Size	Percentage to Population
New Business	804	50	6%
New Business PPA After 7/1/03	407	50	12%
New Business M/C After 7/1/03	11	11	100%
Nonrenewals	19	19	100%
Cancellation for Cause-59 Days	29	29	100%
Cancel for Cause <i>after</i> 59 Days	33	33	100%
Cancel Non Payment-59 Days	13	13	100%
Cancel Non Pay <i>after</i> 59 days	656	50	8%
Surcharges	1962	50	3%
Renewals	2001	50	3%
Renewal After 7/1/03	712	50	7%
Converted PPA Policies	171	50	29%

**Rating**

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of new business and renewal policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

**Claims**

For the period under examination the examiners systematically selected the following samples to determine compliance of claims handling practices and claims manual rules:

Review Lists	Population	Sample Size	Percentage to Population
PIP Claims Paid	102	42	41%
Other than PIP	249	50	20%
Denied /CWP	83	50	60%

**EXAMINATION REPORT SUMMARY**

The examination resulted in four (4) issues arising from the Company's apparent failure to comply with Colorado statutes and regulations that govern all property and casualty insurers operating in Colorado. These issues involved two (2) of the six (6) categories of Company operations examined as follows:

**Company Operations and Management:** In the area of company operations and management, three (3) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements that must be followed by the Company in the issuance, cancellation, and non-renewal of policies of insurance and in the certification of forms. It is recommended that the Company review its operating and management practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations as to each issue. The issues in this area are:

- Failure to file an annual certification of forms.
- Failure, in some cases, to provide a quarterly premium payment plan.
- Failure to offer a named driver exclusion.

**Complaint Handling:** In the area of complaint handling no compliance issues are addressed in this report.

**Agents:** In the area of agency operations no compliance issues are addressed in this report.

**Underwriting and Rating:** In the area of underwriting and rating, one (1) compliance issue is addressed in this report. This issue arose from Colorado statutory and regulatory requirements that must be complied with whenever policies are canceled, non-renewed, premiums increased or decreased, or surcharged. It is recommended that the Company review its underwriting and rating practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations as to each issue.

- Failure, in some cases, to provide an acceptable reason when providing notice of non-renewal of private passenger auto coverage to an insured.

**Claims:** In the area of claims no compliance issues are addressed in this report

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance. Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Colorado Division of Insurance.

**AMERICAN NATIONAL GENERAL INSURANCE COMPANY**

**PERTINENT FACTUAL FINDINGS**

**PRIVATE PASSENGER AUTO**

**PERTINENT FACTUAL FINDINGS**  
**OPERATIONS AND MANAGEMENT**

**Issue A: Failure to file an annual certification of forms.**

Section 10-4-725, C.R.S., Certification of policy and notice forms, states, in part:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted by July 15, 1993, and not later than July 1 of each subsequent year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner.

Colorado Insurance Regulation 1-1-6, promulgated pursuant to Sections 10-1-109, 10-4-419, 10-4-725, and 10-16-107.2, C.R.S., provides, in part:

B. Filing requirements

At least 31 days prior to using any new form, subject to the provisions of this regulation, each entity must file in a format prescribed by the Commissioner, a Listing of New Policy Forms including a fully executed certificate of compliance. Any such listing and the applicable certificate of compliance must be prepared individually for each program. Not later than July 1 of each year, each private passenger automobile insurer and claims-made liability insurer must file an Annual Report of policy forms including a fully executed certificate of compliance.

The company failed to file an annual report and certification for forms used during calendar year 2002, which may be a violation of Colorado Insurance law.



**Recommendation # 1:**

Within 30 days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-725, C.R.S. and Colorado Insurance Regulation 1-1-6. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its practices and procedures and implemented a plan to ensure that all forms are certified to the Division of Insurance as required by Colorado insurance law.

**Issue B: Failure, in some cases, to provide a quarterly premium payment plan.**

Section 10-4-718, C.R.S., Quarterly premium payments, provides:

The commissioner shall issue rules establishing quarterly, semiannual, and annual premium payments for persons who are required to purchase insurance under this part 7. An insurer providing a plan for payments on a basis that is more frequent than quarterly need not also provide a quarterly payment plan. An insurer's plan for payments may provide for payments of an advance deposit premium.

Section 10-4-625, C.R.S. Quarterly premium payments, effective July 1, 2003, provides:

The commissioner shall issue rules establishing quarterly, semiannual, and annual premium payments for persons who are required to purchase insurance under this part 7. An insurer providing a plan for payments on a basis that is more frequent than quarterly need not also provide a quarterly payment plan. An insurer's plan for payments may provide for payments of an advance deposit premium.

Colorado Insurance Regulation 5-2-3, Auto Accident Reparations Act (No-Fault) Rules and Regulations, promulgated by the Commissioner of Insurance promulgated under the authority of Section 10-1-109, C.R.S., provides in part:

**D. Installment Premium Payments**

1. Each insurer continuing private passenger motor vehicle insurance coverage in conformity with the Colorado Automobile Reparations Act shall offer, for persons who are required to purchase insurance under Part 7 of Title 10, Article 4, C.R.S., a quarterly premium payment plan. An insurer, providing a plan for payments of premium on a basis that is more frequent than quarterly, need not also provide a quarterly payment plan.
2. Each insurer shall be required to file rules, methods or procedures to provide an installment premium payment plan.
3. An insurer's premium payment plan that is more frequent than quarterly may provide for payments of an advance deposit premium not greater than one month's premium.

The Company's Underwriting Guidelines state, in part, on page E-1 (5-03):

G. Financial Responsibility

Applicants with a risk score less than 664, full premium payment is required by cash, money order, or certified check at the time of binding. The Easy Pay Plan is not available.

The Company's Notice of Cancellation-Nonpayment of Premium states, in part:

We have not received the premium required to keep your automobile policy in force. Your policy will be cancelled for nonpayment of premium ...Payment in full postmarked before the cancellation date and time will provide continuous coverage.

**Cancelled for non-payment in first 59 days**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
13	13	7	54%

An examination of thirteen (13) policies, representing 100% of all policies cancelled for non-payment in the first 59 days of issuance by the Company in Colorado during 2003, showed seven (7) exceptions (54% of the sample) in which the Company failed to offer a quarterly premium payment plan and required payment in full to reinstate coverage.

Failure to offer a quarterly premium payment plan to all applicants regardless of risk score may be a violation of Colorado Insurance law.

Failure to offer a quarterly premium payment plan when offering to reinstate policies cancelled for non-payment may be a violation of Colorado Insurance law.

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**Recommendation #2:**

Within 30 days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-718, 10-4-625, C.R.S. and Colorado Insurance Regulation 5-2-3. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its practices and procedures and implemented a plan to ensure that quarterly payment plans are offered in compliance with Colorado insurance law.

**Issue C: Failure to offer a named driver exclusion.**

Section 10-4-721(1), C.R.S., Exclusion of named driver, states, in part: ...

- (1) In any case where an insurer is authorized under this part 7 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, *the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name,* (italics added) the person whose claim experience or driving record would have justified the cancellation or nonrenewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.

Section 10-4-630, C.R.S., Exclusion of named driver, (effective July 1, 2003) states, in part: ...

- (1) In any case where an insurer is authorized under this part 6 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the cancellation or nonrenewal. ...

The Company's underwriting manual states:

The following guidelines should be utilized in qualifying automobile business as they specify those risks which **should not be written** in American National General insurance Company. ...

**B. Driving Record**

1. Any applicant or operator who is a member of a household in which all drivers' DRRP points total more than 14 for the previous three years.

The use of total points/incidents per household to refuse to write or renew an insurance policy without offering a named driver exclusion where applicable appears to be a violation of Colorado Insurance law.

**Recommendation #3:**

Within 30 days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-721 and 10-4-630, C.R.S. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its practices and procedures when issuing or renewing policies of insurance and has implemented a plan to ensure future compliance with applicable Colorado Insurance law.

**PERTINENT FACTUAL FINDINGS**

**UNDERWRITING AND RATING**

**Issue D: Failure, in some cases, to provide an acceptable reason when providing notice of non-renewal of private passenger auto coverage to an insured.**

Colorado Insurance Regulation 5-2-3, Auto Accident Reparations Act (No Fault) Rules and Regulations, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-704, and 42-1-204, C.R.S., amended effective February 1, 1998, December 1, 2000, and May 1, 2001, states, in part: ...

E. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

2. Notice of proposed actions....

- a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by §10-4-720 (2), C.R.S. Only one notice is required to be sent to the insured whose incident resulted in the proposed action. The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall clearly describe its underwriting rule, policy or guideline which is the basis for the proposed action. A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed.

Page E-1 of the Company Automobile Underwriting Guidelines states, in part. ...

**B. Driving Record**

1. Any applicant or operator who is a member of a household in which all drivers' DRRP points total more than 14 for the previous three years.
2. Any driver in the household who has been convicted of driving while intoxicated (DWI) and/or blood alcohol content (BAC) two or more times during previous five years
3. Any applicant or operator not possessing a valid United States driver's license. Operators requiring a Financial Responsibility Filing to reinstate license are acceptable.
4. Any applicant or operator who has been convicted of drug possession or any felony.

**Policies non-renewed**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
19	19	6	32%

An examination of nineteen (19) policies, representing 100% of all policies non-renewed by the Company in Colorado during 2003, showed six (6) exceptions (32% of the sample) in which the Company used an underwriting rule not stated in their underwriting manual or used an improper reason for non-renewal.

Four (4) exceptions were noted because policies were non-renewed when policyholders failed to provide underwriting information for drivers not listed on the policy. This is not listed in the Underwriting Manual as a reason for non-renewal.

Two (2) exceptions were noted because policies were non-renewed when the company incorrectly calculated DRRP points to exceed 14. The Company's Underwriting manual states that any driver whose points total more than 14 for the previous 3 years should not be written.

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**Recommendation # 4:**

Within 30 days the Company should demonstrate why it should not be considered to be in violation of Colorado Insurance Regulation 5-2-3. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its practices and procedures and implemented a plan to ensure that non-renewal procedures are in compliance with Colorado insurance law.

**Summary of Issues/Recommendations Locator**

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Independent Market Conduct Examiners

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Participated in this examination and in the preparation of this report